

Attorney Docket No. P10991US2

**REMARKS/ARGUMENTS****1.) Claim Amendments**

The Applicants have amended claims 1, 5, 6, 12-15, 17, and 25. Claims 3, 4, 9-11, 16, 18-24, 30, and 31 have been canceled, and claims 32-37 have been added. Accordingly, claims 1, 2, 5-8, 12-15, 17, 25-29, and 32-37 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

**2.) Claim Rejections – 35 U.S.C. § 103(a)**

In paragraphs 2-3 of the Office Action, the Examiner rejected claims 1-8, 11-19, 21-22, 24-29 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Jarvinen, et al. (EP 0843301 A2) in view of Jansson (US 5,579,435). Of these claims, claims 3, 4, 11, 16, 18, 19, 21, 22, 24, and 31 have been canceled. The remaining claims have been amended to better distinguish the claimed invention from Jarvinen and Jansson. The Examiner's consideration of the amended claims is respectfully requested.

As pointed out by the Examiner on page 3 of the Office Action, "Jarvinen et al. do not specifically teach in response to the variability information indicative of variability of the background noise parameter, perturbing the comfort noise parameter values to produce modified comfort noise parameter values perturbing at the speech decoder." This, however, together with the use of buffered background noise parameters at the decoder is one of the essential aspects of the claimed invention.

In relation to Jansson, it is important to understand that the purpose of the claimed invention is to solve a completely different problem using a completely different approach. Jansson teaches a method for discriminating between stationary and non-stationary signals with the purpose to by-pass an anti-swirling method in case of non-stationary background signals (col. 1, lines 35-63). The anti-swirling method constitutes a parameter modifier, which, when invoked in case of stationary background noise signals, aims to smooth the parameters such that there are less parameter variations from frame-to-frame and thus avoiding swirling. Mentioned parameter modification methods are bandwidth expansion, low-pass filtering of filter parameters, and averaging

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of filter parameters (i.e., means that reduce the background noise variability). (Col. 3, lines 31-67).

The purpose of the claimed invention, in contrast, is to solve the "static" comfort noise problem. As disclosed in the description, the problem is more pronounced in backgrounds with strong variability, i.e., in cases where the Jansson method classifies the signal as non-stationary and thus does NOT apply parameter modifications. Moreover, the solution suggested by the claimed invention is in substantial contrast to Jansson. Rather than parameter smoothing, the claimed invention perturbs the comfort noise parameters in order to achieve a more natural parameter and thus more comfort noise variability than is possible by merely using interpolated comfort noise parameters as in conventional DTX schemes.

Independent claims 1 and 17 have been amended to recite perturbing the comfort noise parameter values to produce perturbed comfort noise parameter values for use in generating perturbed comfort noise. The perturbing step is performed in response to the variability information indicative of variability of the background noise parameter. In addition, the invention uses buffered background noise parameters at the decoder. These features are not taught or suggested by Jarvinen and Jansson. Therefore, the allowance of claims 1 and 17 is respectfully requested.

Claims 2, 5-8, 12-15, and new claims 32 and 33 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 2, 5-8, 12-15, 32, and 33 is respectfully requested.

Claims 25-29 and new claims 34-37 depend from amended claim 17 and recite further limitations in combination with the novel elements of claim 17. Therefore, the allowance of claims 25-29 and 34-37 is respectfully requested.

### CONCLUSION

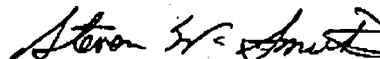
In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1, 2, 5-8, 12-15, 17, 25-29, and 32-37.

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The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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Date: 3-22-2004

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